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SENATE BILL 436

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO BOATING; REDUCING THE BOAT REGISTRATION PERIOD TO TWO YEARS; AMENDING DEFINITIONS IN THE BOAT ACT; DIRECTING BOAT REGISTRATION FEES TO THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT; REQUIRING THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT TO REGULATE SAFE BOATING; AMENDING AND REPEALING SECTIONS OF THE BOAT ACT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-12-3 NMSA 1978 (being Laws 1959, Chapter 338, Section 3, as amended) is repealed and a new Section 66-12-3 NMSA 1978 is enacted to read:

"66-12-3. [NEW MATERIAL] DEFINITIONS.--As used in the Boat Act:

A. "boat" means a motorboat that is ten feet in length or longer;

1           B. "dealer" means any person who engages in whole  
2 or in part in the business of buying, selling or exchanging new  
3 and unused motorboats or used motorboats, or both, either  
4 outright or on conditional sale, bailment, lease, chattel  
5 mortgage or otherwise and who has an established place of  
6 business for sale, trade and display of motorboats; "dealer"  
7 includes a yacht broker;

8           C. "demonstration" means:

9                   (1) the operation of a motorboat on the waters  
10 of this state for the purpose of selling, transferring,  
11 bartering, trading, negotiating or attempting to negotiate the  
12 sale or exchange of an interest in a motor boat; or

13                   (2) the operation of a motorboat by a  
14 manufacturer for the purpose of testing the motorboat;

15           D. "division" means the motor vehicle division of  
16 the taxation and revenue department, unless otherwise  
17 specified;

18           E. "established place of business" means a  
19 salesroom in an enclosed building or structure that the dealer  
20 owns or leases, where the business of bartering, trading and  
21 selling of motorboats is conducted and where the books, records  
22 and files necessary to conduct the business are maintained;

23           F. "lien" means every chattel mortgage, conditional  
24 sales contract, lease, purchase lease, sales lease, contract,  
25 security interest under the Uniform Commercial Code or other

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1 instrument in writing having the effect of a mortgage or lien  
2 or encumbrance upon, or intended to hold the title to any  
3 motorboat in the former owner, possessor or grantor;

4 G. "manufacturer" means any person engaged in the  
5 business of manufacturing or importing new and unused  
6 motorboats for the purpose of sale or trade;

7 H. "motorboat" means any vessel propelled by  
8 machinery, whether or not machinery is the principal source of  
9 propulsion, and includes any vessel that is propelled or  
10 designed to be propelled by sail and that does not have a valid  
11 document issued by a federal agency; but "motorboat" does not  
12 include a sailboard, a windsurf board or a vessel that has a  
13 valid marine document issued by the bureau of customs of the  
14 United States government or any federal agency successor  
15 thereto;

16 I. "operate" means to navigate or otherwise to use  
17 a motorboat or a vessel;

18 J. "owner" means a person, other than a lienholder,  
19 having the property in or title to a motorboat; "owner"  
20 includes a person entitled to the use or possession of a  
21 motorboat subject to an interest in another person, reserved or  
22 created by agreement and securing payment or performance of an  
23 obligation, but excludes a lessee under a lease not intended as  
24 security;

25 K. "person" means an individual, partnership, firm,

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1 corporation, association or other entity;

2 L. "state agency" means any department,  
3 institution, board, bureau, commission, district or committee  
4 of the government of this state and includes every office or  
5 officer of any state agency;

6 M. "state parks division" means the state parks  
7 division of the energy, minerals and natural resources  
8 department;

9 N. "subdivision of the state" means every county,  
10 county institution, board, bureau or commission, incorporated  
11 city, town or village, drainage, conservancy, irrigation or  
12 other district and every office or officer of any subdivision  
13 of this state;

14 O. "vessel" means every description of watercraft,  
15 other than a seaplane on the water, used or capable of being  
16 used as a means of transportation on water; and

17 P. "waters of this state" means waters within the  
18 territorial limits of this state."

19 Section 2. Section 66-12-4 NMSA 1978 (being Laws 1959,  
20 Chapter 338, Section 4, as amended) is amended to read:

21 "66-12-4. OPERATION OF ~~[UNNUMBERED]~~ UNREGISTERED  
22 MOTORBOATS PROHIBITED.--

23 A. Every motorboat ~~[which]~~ that is propelled by  
24 sail or machinery operating on the waters of this state shall  
25 be ~~[numbered]~~ registered. No person shall operate or give

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1 permission for the operation of any motorboat on the waters of  
2 this state unless the motorboat is ~~numbered~~ registered in  
3 accordance with the Boat Act or in accordance with applicable  
4 federal law or in accordance with a federally approved  
5 numbering system of another state and unless the certificate of  
6 registration number awarded to the motorboat is in force and  
7 the identifying number set forth in the certificate of ~~number~~  
8 registration is displayed on each side of the bow of the  
9 motorboat.

10 B. Every boat operating on the waters of this state  
11 and owned by a person who is domiciled in this state shall be  
12 titled. No person shall operate or give permission for the  
13 operation of any boat on the waters of this state unless the  
14 boat is titled as provided in the Boat Act.

15 C. A person who is not domiciled in this state but  
16 ~~who~~ operates a boat on the waters of this state may, pursuant  
17 to the provisions of the Boat Act, elect to register the boat  
18 in this state."

19 Section 3. Section 66-12-5 NMSA 1978 (being Laws 1959,  
20 Chapter 338, Section 5, as amended) is amended to read:

21 "66-12-5. ~~[IDENTIFICATION]~~ REGISTRATION NUMBER.--

22 A. The owner of each motorboat requiring  
23 ~~[numbering]~~ registration and inspection by this state shall  
24 file an application for ~~number~~ registration with the division  
25 on forms approved by it. The application shall be signed by

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1 the owner of the motorboat and shall be accompanied by a  
2 [~~three~~] two-year registration fee as required in Section  
3 66-12-5.1 NMSA 1978. Upon receipt of the application in  
4 approved form, the division shall file it and issue to the  
5 applicant a certificate of registration number stating the  
6 number awarded to the motorboat and the name and address of the  
7 owner. The owner shall paint on or attach to each side of the  
8 bow of the motorboat the [~~identification~~] registration number  
9 in the manner prescribed by [~~regulations~~] rules of the state  
10 parks division in order that it [~~is~~] be clearly visible but in  
11 no case less than three inches in height and of a contrasting  
12 color to the boat color. The number shall be maintained in  
13 legible condition. The certificate of registration number  
14 shall be pocket size and shall be available at all times for  
15 inspection on the motorboat for which it is issued whenever the  
16 motorboat is in operation.

17 B. Should the ownership of a motorboat change prior  
18 to operating it on the waters of this state, the new owner  
19 shall file with the division an application for a new  
20 certificate of registration number in the same manner required  
21 for the award of a number under Subsection A of this section.

22 C. If an agency of the United States has in force  
23 an overall system of identification numbering for motorboats  
24 within the United States, the numbering system employed by the  
25 division pursuant to the Boat Act shall be in conformity with

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1 that system.

2 D. The division may award any certificate of  
3 registration number directly or may authorize any person to act  
4 as agent for the awarding. If a person accepts such  
5 authorization, [~~he~~] the person may be assigned a block of  
6 numbers and certificates [~~which~~] that, upon award in conformity  
7 with the Boat Act and with any [~~regulations~~] rules of the  
8 division, are valid as if awarded directly by the division.

9 E. Every certificate of registration number awarded  
10 pursuant to the Boat Act shall continue in force through  
11 December 31 of the [~~third~~] second calendar year of registration  
12 unless sooner terminated in accordance with the provisions of  
13 the Boat Act. A certificate of registration number may be  
14 renewed in the same manner provided for in the initial securing  
15 of the certificate and upon payment of the [~~three~~] two-year  
16 registration fee. Each application for renewal of a  
17 certificate of registration number shall be made by the owner  
18 on an application form, which must be received by the division  
19 within sixty days after the expiration date of the certificate.

20 F. The owner shall notify the division of transfer,  
21 destruction or abandonment of the motorboat within fifteen days  
22 thereof. The transfer, destruction or abandonment terminates  
23 the certificate of registration number for the motorboat except  
24 in the case of a transfer of a part interest [~~which~~] that does  
25 not affect the owner's right to operate the motorboat.

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1 Whenever the certificate of registration number is terminated,  
2 the owner shall return it to the division within fifteen days  
3 and state the reason for termination.

4 G. If there is a change of address, the holder of a  
5 certificate of registration number shall provide to the  
6 division the new address, existing certificate of registration  
7 number and a reasonable administrative fee. Upon receipt, the  
8 division [~~will~~] shall issue a new certificate of registration  
9 number.

10 H. Only the assigned registration number shall be  
11 painted, attached or otherwise displayed on either side of the  
12 bow of a motorboat.

13 I. The registration number assigned to the motorboat  
14 shall remain the assigned number for the life of the boat,  
15 except when a boat is transferred out of state, destroyed or  
16 abandoned."

17 Section 4. Section 66-12-5.1 NMSA 1978 (being Laws 1983,  
18 Chapter 41, Section 2, as amended) is amended to read:

19 "66-12-5.1. FEES--FORMS--RULEMAKING AUTHORITY.--

20 A. The division, in consultation with the state parks  
21 division, may promulgate rules and shall prescribe and provide  
22 suitable forms of applications, certificates of title and all  
23 other forms necessary to carry out the registration and titling  
24 provisions of the Boat Act in conformity with the requirements  
25 of 33 C.F.R. Part 17.

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1           B. The state parks division may promulgate rules to  
2 implement all other provisions of the Boat Act.

3           C. The division shall establish and impose,  
4 [reasonable] in addition to all other taxes and fees imposed,  
5 registration fees for the purposes of the Boat Act.

6           D. The division shall collect the administrative fee  
7 imposed in Section 66-2-16 NMSA 1978 to defray the division's  
8 costs of operation and of rendering service to the public. The  
9 fee shall be two dollars (\$2.00) for each transaction performed  
10 by an agent or the division and shall be collected in addition  
11 to all other fees and taxes imposed."

12           Section 5. Section 66-12-5.2 NMSA 1978 (being Laws 1987,  
13 Chapter 247, Section 7) is amended to read:

14           "66-12-5.2. OWNER'S CERTIFICATE OF TITLE--FEES--  
15 DUPLICATES.--

16           A. Except as provided in Subsection C of this  
17 section, every owner of a boat subject to titling under the  
18 provisions of the Boat Act shall apply to the division for  
19 issuance of a certificate of title for the boat within thirty  
20 days after acquisition. The application shall be on forms the  
21 division prescribes and accompanied by the required fee. The  
22 application shall be signed and sworn to before a notary public  
23 or other person who administers oaths or shall include a  
24 certification signed in writing containing substantially the  
25 representation that statements made are true and correct to the

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1 best of the applicant's knowledge, information and belief,  
2 under penalty of perjury. The application shall contain the  
3 date of sale and gross price of the boat or the fair market  
4 value if no sale immediately preceded the transfer and any  
5 additional information the division requires. If the  
6 application is made for a boat last previously registered or  
7 titled in another state or foreign country, it shall contain  
8 this information and any other information the division  
9 requires.

10 B. The division shall not issue or renew a  
11 certificate of registration number to any boat required to be  
12 registered [~~and numbered~~] in the state unless the division has  
13 issued a certificate of title to the owner, if the boat is  
14 required to be titled.

15 C. Any person who, on July 1, 1987, is the owner of a  
16 boat with a valid certificate of registration number issued by  
17 the state is not required to file an application for a  
18 certificate of title for the boat until [~~he~~] the person  
19 transfers any part of [~~his~~] the person's interest in the boat  
20 or [~~he~~] renews the certificate of registration number for the  
21 boat.

22 D. If a dealer buys or acquires a used boat for  
23 resale, [~~he~~] the dealer shall report the acquisition to the  
24 division on forms the division provides, or [~~he~~] the dealer may  
25 apply for and obtain a certificate of title as provided in this

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1 section. If a dealer buys or acquires a used unnumbered boat,  
2 [~~he~~] the dealer shall apply for a certificate of title in [~~his~~]  
3 the dealer's name within thirty days. If a dealer buys or  
4 acquires a new boat for resale, [~~he~~] the dealer may apply for a  
5 certificate of title in [~~his~~] the dealer's name.

6 E. Every dealer transferring a boat requiring titling  
7 under this section shall assign the title to the new owner or,  
8 in the case of a new boat, assign the certificate of origin.  
9 Within thirty days, the dealer or purchaser, as applicable,  
10 shall file with the division the necessary application and fee  
11 required under this section.

12 F. The division shall maintain a record of any  
13 certificate of title it issues.

14 G. No person shall sell, assign or transfer a boat  
15 titled by the state without delivering to the purchaser or  
16 transferee a certificate of title with an assignment on it  
17 showing title in the purchaser or transferee and with a  
18 statement of all liens upon the title. No person may purchase  
19 or otherwise acquire a boat required to be titled by the state  
20 without obtaining a certificate of title for it in [~~his~~] the  
21 person's name.

22 H. The division shall charge a ten-dollar (\$10.00)  
23 fee to issue a certificate of title, a transfer of title or a  
24 duplicate or corrected certificate of title.

25 I. If a certificate of title is lost, stolen,

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1 mutilated or destroyed or becomes illegible, the first  
2 lienholder or, if there is none, the owner named in the  
3 certificate, as shown by the division's records, shall within  
4 thirty days obtain a duplicate by applying to the division.  
5 The applicant shall furnish information concerning the original  
6 certificate and the circumstances of its loss, mutilation or  
7 destruction as the division requires. Mutilated or illegible  
8 certificates shall be returned to the division with the  
9 application for a duplicate. Issuance of a duplicate  
10 certificate of title is not subject to the excise tax imposed  
11 under Section 66-12-6.1 NMSA 1978.

12 J. The duplicate certificate of title shall be  
13 plainly marked "duplicate" across its face and mailed or  
14 delivered to the applicant.

15 K. If a lost or stolen original certificate of title  
16 for which a duplicate has been issued is recovered, the  
17 original shall be surrendered promptly to the division for  
18 cancellation."

19 Section 6. Section 66-12-6 NMSA 1978 (being Laws 1965,  
20 Chapter 48, Section 1, as amended) is amended to read:

21 "66-12-6. DEALER AND MANUFACTURER NUMBERS--FEE--  
22 CERTIFICATES OF ORIGIN--RECORDS.--

23 A. A dealer or manufacturer that demonstrates  
24 motorboats on the public waters of this state shall file an  
25 application for a dealer or manufacturer number. The number  
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1 shall be in lieu of a certificate of registration [~~number~~] for  
2 each motorboat intended or offered for sale.

3 B. Application for a dealer or manufacturer number  
4 shall be in the form prescribed by the division. The  
5 application shall state that the applicant is a motorboat  
6 dealer or manufacturer and that the applicant will operate a  
7 motorboat upon the waters of this state only for test or  
8 demonstration purposes. The statement shall be verified before  
9 a state officer who is authorized to administer an oath. The  
10 fee for a dealer or manufacturer number is ten dollars (\$10.00)  
11 annually as prescribed by the division.

12 C. The division shall issue a certificate of a dealer  
13 or manufacturer number to an applicant who submits a complete  
14 application and full payment of the dealer or manufacturer  
15 number fee to the division. The certificate shall be issued  
16 after the applicant obtains a dealer license from the [~~motor~~  
17 ~~vehicle~~] division [~~of the taxation and revenue department~~] and  
18 shall contain the following:

19 (1) a dealer or manufacturer number that  
20 contains two state identification letters, followed by four  
21 numbers and two additional letters that are unique to dealers  
22 or manufacturers;

23 (2) the expiration date of the certificate;

24 (3) the name and business address of the  
25 applicant;

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1 (4) the address of the principal place of  
2 business of the applicant; and

3 (5) a conspicuous statement that the division  
4 has certified the applicant as a dealer or manufacturer.

5 D. The dealer or manufacturer number shall be painted  
6 on or attached to plates that are firmly attached to each side  
7 of the front of a motorboat of the dealer or manufacturer while  
8 it is afloat upon the waters of this state.

9 E. A dealer or manufacturer who operates more than  
10 one motorboat for test or demonstration purposes on the waters  
11 of this state at the same time shall obtain and display a  
12 separate dealer or manufacturer number for each motorboat  
13 tested or demonstrated.

14 F. A manufacturer or dealer shall not transfer  
15 ownership of a new boat without supplying the transferee with  
16 the manufacturer's certificate of origin signed by the  
17 manufacturer's authorized agent. The certificate shall contain  
18 information the division requires, including a description of  
19 the boat that includes the make, year, length, series or model,  
20 hull type and hull identification number, and, for a boat with  
21 an inboard motor, the make of the engine and the engine serial  
22 number. In addition, the manufacturer's certificate of origin  
23 shall contain space for proper reassignment to a New Mexico  
24 dealer or to a dealer duly licensed or recognized as such in  
25 another state, territory or possession of the United States.

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1           G. Every dealer shall maintain for three years a  
2 record of any boat [~~he~~] the dealer bought, sold, exchanged or  
3 received for sale or exchange. This record shall be open to  
4 inspection by division representatives during reasonable  
5 business hours."

6           Section 7. Section 66-12-6.1 NMSA 1978 (being Laws 1987,  
7 Chapter 247, Section 9) is amended to read:

8           "66-12-6.1. EXCISE TAX ON ISSUANCE OF CERTIFICATES OF  
9 TITLE--APPROPRIATION.--

10           A. An excise tax is imposed upon the sale of every  
11 boat required to be registered in the state. To prevent  
12 evasion of the excise tax imposed by this section and the duty  
13 to collect it, it is presumed that the issuance of every  
14 original and subsequent certificate of title, other than a  
15 duplicate, for boats of a type required to be registered under  
16 the provisions of the Boat Act constitutes a sale for tax  
17 purposes, unless specifically exempted by this section or  
18 unless there is shown satisfactory proof that the boat for  
19 which the certificate of title is sought came into the  
20 possession of the applicant as a voluntary transfer without  
21 consideration or as a transfer by operation of law. The  
22 division shall collect the tax at the time application is made  
23 for issuance of a certificate of title at the rate of five  
24 percent of the sale price of the boat. If the sale price does  
25 not represent the value of the boat in the condition that

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1 existed at the time it was acquired, the excise tax shall then  
2 be imposed at the rate of five percent of the reasonable value  
3 of the boat in such condition at such time. However,  
4 allowances granted for trade-ins may be deducted from the sale  
5 price or the reasonable value of the boat purchased. The tax  
6 shall be paid by the applicant, and the division may require  
7 all information [~~which~~] that it deems necessary to establish  
8 the amount of the tax.

9 B. A penalty of fifty percent of the tax due on the  
10 issuance of a certificate of title is imposed on any person  
11 [~~who~~] that, domiciled in this state and accepting transfer in  
12 this state, fails to apply for a certificate within ninety days  
13 of the date on which ownership was transferred to [~~him~~] the  
14 person or [~~who~~] is domiciled in this state but accepts transfer  
15 outside this state and [~~who~~] fails to apply for a certificate  
16 within ninety days of the date on which the boat is brought  
17 into this state.

18 C. If a boat has been acquired through an out-of-  
19 state transaction upon which a gross receipts, sales,  
20 compensating or similar tax was levied by another state or  
21 political subdivision thereof, the amount of the tax paid may  
22 be credited against the excise tax due this state on the same  
23 boat.

24 D. Persons domiciled outside this state and on active  
25 duty in the military service of the United States or on active

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1 duty as officers of the public health service detailed for duty  
2 with any branch of the military service are exempt from the tax  
3 imposed by this section.

4 E. Persons [~~who~~] that acquire a boat out of state  
5 thirty or more days before establishing a domicile in this  
6 state are exempt from the tax imposed by this section if the  
7 boat was acquired for personal use.

8 F. Persons applying for a certificate of title for a  
9 boat registered in another state are exempt from the tax  
10 imposed by this section if they have previously registered and  
11 titled the boat in New Mexico and have owned the boat  
12 continuously since that time.

13 G. Certificates of title for all boats owned by this  
14 state or any political subdivision are exempt from the tax  
15 imposed by this section.

16 H. All taxes collected under the provisions of this  
17 section shall be paid to the state treasurer for credit to the  
18 "boat suspense fund", hereby created. At the end of each  
19 month, the state treasurer shall transfer fifty percent of the  
20 excise tax collections in the boat suspense fund to the state  
21 parks division and the balance to the general fund. The  
22 amounts transferred to the state parks division are  
23 appropriated for use by the state parks division for  
24 improvements and maintenance of lakes and boating facilities  
25 owned or leased by the state and for administration and

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1 enforcement of the Boat Act.

2 I. The director of the division shall prescribe forms  
3 ~~[he]~~ the director deems necessary to account properly for the  
4 taxes collected under this section."

5 Section 8. Section 66-12-6.4 NMSA 1978 (being Laws 1987,  
6 Chapter 247, Section 12) is amended to read:

7 "66-12-6.4. ~~[FORMS]~~ INVESTIGATIONS.--

8 ~~[A. The division shall prescribe and provide suitable~~  
9 ~~forms of applications, certificate of title and all other forms~~  
10 ~~necessary to carry out the provisions of this act.~~

11 ~~B.]~~ The division and the state parks division may  
12 make necessary investigations to ~~[procure]~~ collect and provide  
13 each other with information required to carry out the  
14 provisions of the Boat Act."

15 Section 9. Section 66-12-6.6 NMSA 1978 (being Laws 2003,  
16 Chapter 410, Section 5) is amended to read:

17 "66-12-6.6. DEALER LICENSE.--

18 A. A person shall not engage in business as a dealer  
19 or manufacturer without obtaining a valid dealer license from  
20 the ~~[motor vehicle]~~ division ~~[of the taxation and revenue~~  
21 ~~department]~~, unless the person has a valid motor vehicle dealer  
22 license. A dealer or manufacturer shall annually file an  
23 application with the ~~[motor vehicle]~~ division for a dealer  
24 license for each established place of business of the dealer or  
25 manufacturer.

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1           B. A person shall file an application for a dealer  
2 license with the [~~motor vehicle~~] division [~~of the taxation and~~  
3 ~~revenue department~~] on a form prescribed by the [~~motor vehicle~~]  
4 division. The application shall contain the name, address and  
5 telephone number of the applicant, the signature of the  
6 applicant or the signatures of all of the officers of a  
7 corporate applicant, the address of the established place of  
8 business, the federal taxpayer identification number of the  
9 applicant and other information that the [~~motor vehicle~~]  
10 division may require. The application shall state that the  
11 applicant will engage in business as a dealer. The statement  
12 shall be verified before a state officer authorized to  
13 administer an oath. The fee for a dealer license shall be  
14 prescribed by the [~~motor vehicle~~] division but shall not exceed  
15 fifty dollars (\$50.00) annually.

16           C. The [~~motor vehicle~~] division [~~of the taxation and~~  
17 ~~revenue department~~] shall issue a dealer license to an  
18 applicant who submits a complete application and full payment  
19 of the dealer license fee to the [~~motor vehicle~~] division. The  
20 license shall contain the following:

- 21                   (1) the license number;
- 22                   (2) the expiration date of the license;
- 23                   (3) the name and business address of the  
24 licensee;
- 25                   (4) the address of the location for which the

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1 license was issued; and

2 (5) a statement requiring that the license be  
3 conspicuously displayed at the location for which the license  
4 was issued.

5 D. A dealer license shall specify the location of  
6 each place of business in which the licensee engages in  
7 business as a dealer. The dealer shall notify the [~~motor~~  
8 ~~vehicle~~] division [~~of the taxation and revenue department~~] of a  
9 change of ownership, location or name of the place of business  
10 within ten days of the change.

11 E. A dealer license shall authorize the licensed  
12 activity at only one business establishment. A dealer shall  
13 obtain a supplemental license from the [~~motor vehicle~~] division  
14 [~~of the taxation and revenue department~~] for each additional  
15 establishment owned or operated by the dealer. The application  
16 for a supplemental license shall be in a form prescribed by the  
17 [~~motor vehicle~~] division. The [~~motor vehicle~~] division shall  
18 issue a supplemental license to an applicant [~~who~~] that  
19 possesses a valid dealer license, submits a complete  
20 application and meets all other requirements of the [~~motor~~  
21 ~~vehicle~~] division.

22 F. A dealer license or supplemental license shall be  
23 conspicuously displayed at the location of the established  
24 place of business for which it was issued."

25 Section 10. Section 66-12-6.7 NMSA 1978 (being Laws 2003,

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1 Chapter 410, Section 6) is amended to read:

2 "66-12-6.7. DEALER LICENSE DENIAL, SUSPENSION AND  
3 REVOCATION.--The [~~motor vehicle~~] division [~~of the taxation and~~  
4 ~~revenue department~~] may deny, suspend or revoke a dealer  
5 license for:

6 A. a material misrepresentation communicated by a  
7 dealer to the [~~motor vehicle~~] division;

8 B. a lack of fitness as proscribed by rule of the  
9 [~~motor vehicle~~] division; or

10 C. a willful violation of a federal or state law  
11 relating to the sale, distribution, financing, registration,  
12 taxing or insuring of motorboats."

13 Section 11. Section 66-12-6.8 NMSA 1978 (being Laws 2003,  
14 Chapter 410, Section 7) is amended to read:

15 "66-12-6.8. DEALER BONDS--REQUIRED INSURANCE.--A person  
16 licensed as a dealer pursuant to the Boat Act shall file with  
17 the [~~state parks~~] division a bond in the amount of fifty  
18 thousand dollars (\$50,000) unless [~~there is~~] the person has a  
19 bond on file with the [~~motor vehicle~~] division [~~of the taxation~~  
20 ~~and revenue department~~] for a motor vehicle dealer's license  
21 and such proof is submitted to the [~~state parks~~] division. The  
22 bond shall be issued by a corporate surety licensed to conduct  
23 business within the state. The bond shall be issued under the  
24 condition that the applicant shall not practice fraud or  
25 violate any provision of the Boat Act. A person who has

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1 obtained a dealer license shall furnish evidence that the  
2 person has liability insurance for the established place of  
3 business for which the license was obtained."

4 Section 12. Section 66-12-7 NMSA 1978 (being Laws 1959,  
5 Chapter 338, Section 6, as amended) is amended to read:

6 "66-12-7. EQUIPMENT.--

7 A. Every vessel shall have aboard:

8 (1) one life preserver, buoyant vest, ring buoy  
9 or buoyant cushion bearing the mark of approval of the United  
10 States coast guard and in serviceable condition for each person  
11 on board;

12 (2) one oar or paddle;

13 (3) one bailing bucket with a capacity of at  
14 least one gallon or a hand-operated bilge pump; and

15 (4) a length of stout rope at least equal to the  
16 length of the vessel.

17 B. Every motorboat, during the hours of darkness,  
18 shall carry:

19 (1) a bright white light aft to show around the  
20 horizon; and

21 (2) a combined light on the [~~fore part~~] forepart  
22 of the vessel and lower than the white light and showing green  
23 to the starboard and red to the port and so fixed as to throw  
24 the light from right ahead to two points abaft the beam on  
25 their respective sides. No other light shall be shown except

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1 as specifically prescribed by the United States coast guard for  
2 the particular class of boats.

3 C. If carrying or using any inflammable or toxic  
4 fluid in any enclosure for any purpose and if that enclosure is  
5 not entirely open, [~~every~~] the vessel shall have an efficient  
6 natural or mechanical ventilation system capable of removing  
7 resulting gases prior to and during the time the vessel is  
8 occupied by any person.

9 D. No privately owned vessel shall carry a siren  
10 unless specifically authorized in writing by the director of  
11 the state parks division.

12 E. No person shall operate or give permission for the  
13 operation of a vessel [~~which~~] that is not equipped as required  
14 by this section."

15 Section 13. Section 66-12-8 NMSA 1978 (being Laws 1959,  
16 Chapter 338, Section 7, as amended) is amended to read:

17 "66-12-8. EXEMPTIONS FROM [~~NUMBERING~~] REGISTRATION  
18 PROVISIONS OF THE BOAT ACT.--A motorboat shall not be required  
19 to be [~~numbered~~] registered under the Boat Act if it is:

20 A. already covered by a registration number in force  
21 [~~which~~] that has been awarded to it pursuant to federal law or  
22 a federally approved numbering system of another state;  
23 provided that the boat shall not have been within this state  
24 for a period in excess of ninety consecutive days;

25 B. a motorboat from a country other than the United

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1 States temporarily using the waters of this state;

2 C. a motorboat whose owner is the United States, a  
3 state or a subdivision thereof;

4 D. a ship's lifeboat; or

5 E. a motorboat belonging to a class of boats [~~which~~  
6 ~~has been exempted~~] that is exempt from numbering by the state  
7 parks division after it has found that the numbering of  
8 motorboats of that class will not materially aid in their  
9 identification; and, if an agency of the federal government has  
10 a numbering system applicable to the class of motorboats to  
11 which the motorboat in question belongs, after the state parks  
12 division has further found that the motorboat would also be  
13 exempt from numbering if it were subject to the federal law."

14 Section 14. Section 66-12-9 NMSA 1978 (being Laws 1959,  
15 Chapter 338, Section 8, as amended) is amended to read:

16 "66-12-9. BOAT [~~LIVERIES~~] RENTAL FACILITIES.--

17 A. The owner of a boat [~~livery~~] rental facility shall  
18 [~~cause to be kept~~] maintain a record of the name and address of  
19 the person or persons hiring any vessel [~~which~~] that is  
20 designed or permitted by [~~him~~] the owner to be operated as a  
21 motorboat, the [~~identification~~] registration number thereof,  
22 [~~and~~] the departure date and time and the expected time of  
23 return. The record shall be preserved for at least six months.

24 B. Neither the owner of a boat [~~livery~~] rental  
25 facility nor [~~his~~] the owner's agent or employee shall permit

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1 any motorboat or any vessel designed or permitted by [~~him~~] the  
2 owner to be operated as a motorboat to depart from [~~his~~] the  
3 owner's premises unless it [~~shall have~~] has been provided with  
4 the equipment required pursuant to Section [~~75-35-6 NMSA 1953~~]  
5 66-12-7 NMSA 1978 and any rules [~~and regulations~~] made pursuant  
6 thereto by the state parks division."

7 Section 15. Section 66-12-12 NMSA 1978 (being Laws 1959,  
8 Chapter 338, Section 11, as amended) is amended to read:

9 "66-12-12. COLLISIONS--ASSISTANCE AND REPORTS.--

10 A. The operator of a vessel involved in a collision,  
11 accident or other casualty, so far as [~~he~~] the operator can do  
12 so without serious danger to [~~his~~] the operator's own vessel,  
13 crew and passengers, shall:

14 (1) render to other persons affected by the  
15 collision, accident or other casualty such assistance as  
16 practicable and necessary in order to save them from, or  
17 minimize, any danger caused by the collision, accident or other  
18 casualty; and

19 (2) give [~~his~~] the operator's name, address and  
20 identification of [~~his~~] the operator's vessel in writing to any  
21 person injured and to the owner of any property damaged in the  
22 collision, accident or other casualty.

23 B. In case of collision, accident or other casualty  
24 involving a vessel and resulting in death or injury to a person  
25 or damage to property in excess of one hundred dollars (\$100),

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1 the operator of the vessel or [~~his~~] the operator's legal  
2 representative shall, within forty-eight hours, file with the  
3 state parks division a full description of the collision,  
4 accident or other casualty, including all information that the  
5 state parks division may require by [~~regulation~~] rule.

6 C. All collision, accident or other casualty reports  
7 filed as required by this section shall be without prejudice to  
8 the individual making the report and are solely for the  
9 confidential use of the state parks division, except that the  
10 state parks division may disclose the identity of a person  
11 involved in an accident when the identity is not otherwise  
12 known or when the person denies [~~his~~] the person's presence at  
13 the accident. The report is inadmissible as evidence in any  
14 trial, civil or criminal, arising out of an accident, except  
15 that the state parks division may furnish, upon request, a  
16 certificate showing that a specified accident report has or has  
17 not been made as required by this section."

18 Section 16. Section 66-12-13 NMSA 1978 (being Laws 1959,  
19 Chapter 338, Section 12, as amended) is amended to read:

20 "66-12-13. TRANSMITTAL OF INFORMATION.--In accordance  
21 with any request duly made by an authorized official or agency  
22 of the United States, any information compiled or otherwise  
23 available to the state parks division pursuant to Subsection B  
24 of Section [75-35-11B NMSA 1953] 66-12-12 NMSA 1978 shall be  
25 transmitted to the official or agency of the United States."

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1           Section 17. Section 66-12-15 NMSA 1978 (being Laws 1959,  
2 Chapter 338, Section 14, as amended) is amended to read:

3           "66-12-15. REGATTAS--RACES--MARINE PARADES--TOURNAMENTS  
4 OR EXHIBITIONS.--

5           A. The state parks division may authorize the holding  
6 of regattas, motorboat or other boat races, marine parades,  
7 tournaments or exhibitions on any waters of this state. It  
8 shall adopt and may, from to time, amend [~~regulations~~] rules  
9 concerning the safety of motorboats and other vessels and  
10 persons thereon, either observers or participants. Whenever a  
11 regatta, motorboat or other boat race, marine parade,  
12 tournament or exhibition is proposed to be held, the person in  
13 charge thereof shall, at least thirty days prior thereto, file  
14 an application with the division to hold the regatta, motorboat  
15 or other boat race, marine parade, tournament or exhibition.  
16 The application shall set forth the date, time and location  
17 where it is proposed to hold the regatta, motorboat or other  
18 boat race, marine parade, tournament or exhibition, and it  
19 shall not be conducted without authorization of the state parks  
20 division in writing.

21           B. The provisions of this section [~~shall~~] do not  
22 exempt any person from compliance with applicable federal law  
23 or [~~regulation~~] rule, but nothing contained [~~herein~~] in this  
24 section shall be construed to require the securing of a state  
25 permit pursuant to this section if a permit [~~therefor~~] has been

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1 obtained from an authorized agency of the United States."

2 Section 18. Section 66-12-16 NMSA 1978 (being Laws 1959,  
3 Chapter 338, Section 15, as amended) is amended to read:

4 "66-12-16. LOCAL [~~REGULATIONS--RESTRICTIONS--SPECIAL~~  
5 ~~RULES AND REGULATIONS~~] LAWS--RULES.--

6 A. The provisions of the Boat Act and of other  
7 applicable laws of this state shall govern the operation,  
8 equipment, registration, numbering and all other matters  
9 relating thereto whenever any vessel [~~shall be~~] is operated on  
10 the waters of this state or when any activity regulated by the  
11 Boat Act [~~shall take~~] takes place thereon, but nothing in the  
12 Boat Act shall be construed to prevent the adoption of any  
13 ordinance or local law relating to the operation and equipment  
14 of vessels where the provisions of the ordinance or local law  
15 are identical to the provisions of the Boat Act, amendments  
16 thereto or [~~regulations~~] rules issued thereunder; provided that  
17 the ordinance or local law shall be operative only so long as,  
18 and to the extent that, [~~they continue~~] it continues to be  
19 identical to the provisions of the Boat Act, amendments thereto  
20 or [~~regulations~~] rules issued thereunder.

21 B. Any subdivision of this state may, at any time but  
22 only after public notice, make formal application to the state  
23 parks division for special rules [~~and regulations~~] with  
24 reference to the operation of vessels on any waters within its  
25 territorial limits and shall set forth therein the reasons

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1 [which] that make the special rules [~~or regulations~~] necessary  
2 or appropriate.

3 C. The state parks division is authorized to [~~make~~  
4 ~~special~~] promulgate rules [~~and regulations with reference to~~]  
5 regarding the operation of vessels on any waters within the  
6 territorial limits of any subdivision of this state."

7 Section 19. Section 66-12-18.1 NMSA 1978 (being Laws  
8 2006, Chapter 46, Section 1) is amended to read:

9 "66-12-18.1. SAFE BOATING RULES.--The state parks  
10 division shall adopt safe boating education rules that require  
11 that:

12 A. a person born after January 1, 1989 [~~who~~] that  
13 operates a motorboat on the waters of this state shall:

14 (1) have completed a safe boating education  
15 course that is approved by the national association of state  
16 boating law administrators and certified by the state parks  
17 division or passed an equivalency examination that was  
18 proctored and that tested the knowledge of information included  
19 in the curriculum of the course and have received a certificate  
20 of completion of the certified course or passage of the  
21 equivalency examination;

22 (2) possess a valid license to operate a vessel  
23 issued for maritime personnel by the United States coast guard  
24 pursuant to 46 C.F.R. Part 10 or a marine certificate issued by  
25 the Canadian government; or

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1           (3) have received, as an authorized operator of  
2 a rented or leased motorboat, instructions regarding the safe  
3 operation of the motorboat and a summary of the statutes and  
4 rules governing the operation of a motorboat from a person in  
5 the business of renting or leasing motorboats. The  
6 instructions shall be valid only for the period of the rental  
7 agreement not to exceed thirty days; and

8           B. a person in the business of renting or leasing  
9 motorboats for a period not exceeding thirty days shall:

10           (1) not rent or lease a motorboat to a person  
11 for operation on the waters of this state unless the person  
12 meets the provisions of Subsection A of this section;

13           (2) maintain rental or lease records that  
14 include the name and age of each person ~~[who]~~ that is  
15 authorized to operate the rented or leased motorboat; and

16           (3) provide each authorized operator of a rented  
17 or leased motorboat with instructions regarding the safe  
18 operation of the motorboat and a summary of the statutes and  
19 ~~[regulations]~~ rules governing the operation of a motorboat."

20           Section 20. Section 66-12-20 NMSA 1978 (being Laws 1959,  
21 Chapter 338, Section 19, as amended) is amended to read:

22           "66-12-20. DISPOSITION OF FEES.--The registration fees  
23 collected pursuant to the provisions of the Boat Act ~~[less the~~  
24 ~~administrative fee withheld pursuant to Section 1 of this 1997~~  
25 ~~act]~~ shall be ~~[covered into]~~ transferred to the state ~~[park and~~

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1 ~~recreation fund]~~ parcs division."

2 Section 21. Section 66-12-21 NMSA 1978 (being Laws 1959,  
3 Chapter 338, Section 20, as amended) is amended to read:

4 "66-12-21. DISPOSITION OF FINES.--All money collected as  
5 fines for the violation of the provisions of the Boat Act and  
6 [~~regulations]~~ rules of the state [~~park and recreation]~~ parcs  
7 division made pursuant [~~thereto]~~ to that act shall be paid for  
8 credit to the current school fund of [~~the]~~ this state."

9 Section 22. Section 66-12-22 NMSA 1978 (being Laws 1959,  
10 Chapter 338, Section 21, as amended) is amended to read:

11 "66-12-22. ENFORCEMENT.--The director of the state parcs  
12 division, park custodians and other employees of the state  
13 parcs division designated in writing by the director of the  
14 state parcs division, every sheriff in [~~his]~~ each respective  
15 county and every member of the New Mexico state police [~~has]~~  
16 have full authority of [~~a~~] peace [~~officer]~~ officers to enforce  
17 the provisions of the Boat Act and the [~~regulations]~~ rules  
18 issued pursuant [~~thereto]~~ to that act and, in [~~its]~~ their  
19 exercise, may stop and board any vessel subject to the Boat  
20 Act."

21 Section 23. Section 66-12-23 NMSA 1978 (being Laws 1963,  
22 Chapter 45, Section 9, as amended) is amended to read:

23 "66-12-23. PENALTIES.--A person [~~who]~~ that violates a  
24 provision of the Boat Act or a [~~regulation]~~ rule of the state  
25 parcs division [~~of the energy, minerals and natural resources~~

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1 ~~department~~] promulgated pursuant to that act is guilty of a  
2 petty misdemeanor and shall be sentenced pursuant to the  
3 provisions of Section 31-19-1 NMSA 1978."

4 Section 24. REPEAL.--Section 66-12-18 NMSA 1978 (being  
5 Laws 1959, Chapter 338, Section 17, as amended) is repealed.

6 Section 25. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2009.

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